

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CIVIL ACTION NO. 5:09-CV-80-RLV-DSC**

DIANNA JENKINS,)	
)	
Plaintiff,)	
v.)	
)	
MANN BRACKEN, LLP and AXIANT, LLC,)	
)	
Defendants.)	
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ORDER

THIS MATTER is before the Court on Plaintiff's "Motion to Compel" (document #22). Pro se Defendant Mann Bracken, LLP has not responded to the Motion and the time for filing a brief or other response has expired.

Having considered the filings and the pleadings, it appears to the Court that Defendant Mann Bracken, LLP has failed to respond to Plaintiff's First Requests for Admissions, First Set of Interrogatories, and First Request for Production of Documents ("Discovery Requests").

The Fourth Circuit has emphasized the significance of establishing a history of dilatory action and warning to the offending party of what may follow prior to imposing discovery sanctions for failure to comply with discovery obligations. See, e.g., Hathcock v. Navistar Int'l Transp. Corp., 55 F.3d 36, 40 (4th Cir. 1995); Choice Hotels Int'l v. Goodwin & Boone, 11 F.3d 469, 473 (4th Cir. 1993); and Lolatchy v. Arthur Murray, Inc., 816 F.2d 951, 953 (4th Cir. 1987).

Applying these legal principles to this case, and recognizing that Defendant Mann Bracken, LLP has not been warned previously of the likely consequences of its failure to perform its responsibilities as a litigant, the Court will grant Plaintiff's Motion to Compel, but withhold

imposition of discovery sanctions pending Defendant's compliance with this Order.

Accordingly, the Court warns Defendant Mann Bracken, LLP that any further failure to respond to Plaintiff's First Requests for Admissions, First Set of Interrogatories, and First Request for Production of Documents, to respond to any of Plaintiff's other reasonable discovery requests, or to otherwise comply fully with any of the Court's Orders, the Local Rules, or the Rules of Civil Procedure may result in the imposition of sanctions. **Sanctions may include Defendant being required to pay Plaintiff's costs, including reasonable attorneys' fees, and may also include entry of default judgment.**

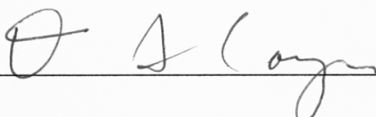
IT IS THEREFORE ORDERED that:

1. Plaintiff's Motion to Compel is **GRANTED**. Defendant Mann Bracken, LLP shall serve complete responses to each of Plaintiff's Discovery Requests and produce all of the documents requested by Plaintiff within 15 days of this Order.

2. The Clerk is directed to send copies of this Order to the pro se Defendant (c/o Cheryl Rose, 12154 Darnestown Rd., Box 623, Gaithersburg, MD 20878) ; to counsel for the other parties; and to the Honorable Richard L. Voorhees.

SO ORDERED.

Signed: December 23, 2010

A handwritten signature in black ink, appearing to read "D. S. Cayer", is written over a horizontal line.

David S. Cayer
United States Magistrate Judge

